

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

LLOYD SPRINKLE,

*

Plaintiff,

*

v.

*

2:08-CV-697-TMH
(WO)

ELMORE COUNTY, AL SHERIFF'S
OFFICE, *et al.*,

*

*

Defendants.

RECOMMENDATION OF THE MAGISTRATE JUDGE

This 42 U.S.C. § 1983 action was filed by Plaintiff on August 25, 2008. On August 28, 2008 the court entered a procedural order (*Doc. No. 3*) as well as an order directing Plaintiff to file either the \$350.00 filing fee or an application for leave to proceed *in forma pauperis*. (*Doc. No. 4.*)

On September 3, 2008 the envelope containing Plaintiff's copy of Document Number 3 was returned to the court marked "return to sender, not here," because Plaintiff was no longer at the most recent address he had provided to the court. Consequently, a show cause order was entered on September 4, 2008 directing Plaintiff to provide the court with his present address. (*Doc. No. 5.*) Plaintiff was cautioned that his failure to comply with the court's September 4, 2008 order would result in a recommendation that this case be dismissed. (*Id.*)

On September 8, 2008 the envelope containing Plaintiff's copy of the court's August

28 order (*Doc. No. 4*) was returned to the court and on September 9, 2008 the envelope containing Plaintiff's copy of the court's September 4 show cause order was returned to the court marked as undeliverable. As it appears clear that Plaintiff is no longer residing at the most recent address he provided to the court and that he has not provided this court with a new address, the undersigned concludes that dismissal of the complaint at this juncture is appropriate.

Accordingly, it is the RECOMMENDATION of the Magistrate Judge that this case be DISMISSED without prejudice for Plaintiff's failures to prosecute this action properly and to comply with the orders of this court.

It is further

ORDERED that the parties are DIRECTED to file any objections to the Recommendation on or before **September 29, 2008**. Any objections filed must specifically identify the findings in the Magistrate Judge's Recommendation to which a party objects. Frivolous, conclusive or general objections will not be considered by the District Court. The parties are advised that this Recommendation is not a final order of the court and, therefore, it is not appealable.

Failure to file written objections to the proposed findings and recommendations in the Magistrate Judge's report shall bar the party from a *de novo* determination by the District Court of issues covered in the report and shall bar the party from attacking on appeal factual findings in the report accepted or adopted by the District Court except upon grounds of plain error or manifest injustice. *Nettles v. Wainwright*, 677 F.2d 404 (5th Cir. 1982). *See Stein*

v. Reynolds Securities, Inc., 667 F.2d 33 (11th Cir. 1982). *See also Bonner v. City of Prichard*, 661 F.2d 1206 (11th Cir. 1981) (*en banc*), adopting as binding precedent all of the decisions of the former Fifth Circuit handed down prior to the close of business on September 30, 1981.

DONE, this 16th day of September, 2008.

/s/ Susan Russ Walker
SUSAN RUSS WALKER
CHIEF UNITED STATES MAGISTRATE JUDGE